

1982 WL 189416 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 8, 1982

***1 RE: Ombudsman's Authority to Investigate**

Mr. John Stephen Hooks, Jr.
Special Assistant for Legal Affairs
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Mr. Hooks:

On behalf of Governor Riley you have requested our opinion on the following question:

If an accident, or alleged abuse or similar type of incident occurs in a nursing home and subsequently the patient is transferred to a hospital for treatment, does the Ombudsman have the authority to continue the investigation by reviewing/receiving copies of the hospital records of the patient?

By previous opinion of this office, based on § 1 of Act No. 127 of the 1977 Acts [repealed by 1980 Act No. 416, § 6], it was concluded under similar facts that the Ombudsman would have continuous authority to question the patient who had been transferred subsequent to the filing of the complaint, however, under the statute in effect at that time, it was held that he did not have the authority to inspect the records of the facility to which the patient was transferred if not a residential care facility or a nursing home. 1979 Op. Att'y Gen., July 11, 1979 (unpublished).

Act No. 416 of 1980 (§§ 43-38-10 thru 43-38-50) expanded the authority of the Ombudsman to investigate facilities, now defined by § 43-38-10, however, 'general hospitals which treat acute injuries or illnesses' are excluded. Section 42-38-30 authorizes the Ombudsman to 'investigate any problem or complaint . . . of any facility as defined in this chapter. In carrying out any such investigation, he may request . . . written statements, documents, exhibits and other items pertinent to the investigation . . .'

In the opinion of this office the Ombudsman still has the authority to continue an investigation against a facility, as presently defined, subsequent to the patient's removal to another facility, however, by definition a general hospital is excluded from the statutory definition of 'facility' and the Ombudsman's authority to request and receive certain records is still limited as in the original Act, Act No. 127 of 1977.

Very truly yours,

Raymond G. Halford
Deputy Attorney General

1982 WL 189416 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.